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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/680,284	10/06/2000	Sigrid Lise Fossheim	REF/FOSSHEIM/100	8494

7590 12/13/2001  
Bacon & Thomas PLLC  
625 Slaters Lane  
4th Floor  
Alexandria, VA 22314-1176

EXAMINER

WELLS, LAUREN Q

ART UNIT	PAPER NUMBER
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1619

DATE MAILED: 12/13/2001

6

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/680,284

Applicant(s)

FOSSHEIM ET AL.

Examiner

Lauren Q Wells

Art Unit

1619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 and 23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-21 and 23 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### **DETAILED ACTION**

Claims 1-22 and 23 are pending. The Preliminary Amendment received October 6, 2000 canceled claim 22. The Preliminary Amendment received October 6, 2000 amended claims 4-5, 12, and 15-17.

### ***Election/Restrictions***

Claims 1-21 and 23 are generic to a plurality of disclosed patentably distinct species comprising particulate contrast agents in diagnostic imaging for studying physiological parameters. In particular, contrast agents comprise a particulate material of a membrane/matrix material and a contrast generating species. Possible membrane/matrix materials include phospholipids, sugar matrices, shells of denatured albumin, shells of partially denatured albumin. Possible contrast generating species include paramagnetic compounds, superparamagnetic compounds, iron oxides, gadolinium, dysprosium compounds, and encapsulated gases of fluorohydrocarbon, sulphur hexafluoride, or perfluorocarbon. Imaging techniques include MRI, scintigraphy, ultrasound or X-ray imaging. Physiological parameters include pH, temperature, pressure, carbon dioxide tension, enzyme activity, tissue electrical activity, tissue diffusion, oxygen tension, ion concentration in the presence or concentration of other body metabolites or enzymes, or ion concentration. Targeting ligands include antibodies, cell adhesion molecules, cell adhesion receptors, cytokines, growth factors, peptide hormones, non-peptide agonists, non-peptide antagonists, non bioactive binders of receptors for cell adhesion molecules, growth factors, oligonucleotides, modified oligonucleotides which bind DNA or RNA, DNA-binding drugs, proteins which bind to glucosamino-glycan side changes, and peptides which bind to

glucosamino glycan side chains. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

**Note:** Applicant is respectfully requested to elect a matrix/membrane material, a contrast generating species, an imaging technique, a physiological parameter and a targeting ligand.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lauren Q Wells whose telephone number is (703) 305-1878. The examiner can normally be reached on T-F (6-4:30).

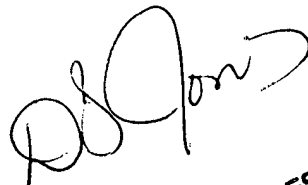
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diana L Dudash can be reached on (703) 308-2328. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and (703) 308-4556 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1234.

lqw  
December 4, 2001



DAMERON L. JONES  
PRIMARY EXAMINER